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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/709,265	11/09/2000	Willem Van Erk	PHN-17.734	3672

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EXAMINER

GEMMELL, ELIZABETH M

ART UNIT	PAPER NUMBER
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2882

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/709,265

Applicant(s)

VAN ERK, WILLEM

Examiner

Beth Gemmell

Art Unit

2882

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 06 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 November 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

Receipt is acknowledged of amendment filed 6 January 2003.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1,2 and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by Fromm et al. (US Patent 6,069,456).

Re claims 1 and 4: Fromm et al. discloses a high-pressure gas discharge lamp comprising: a quartz glass (column 2, line 44) lamp vessel (figure 1, 1) which is closed in a gastight manner (column 8, line 7), with a space which is enclosed by a wall (figure 1, 4) and in which a pair of electrodes (fig 1, 14) is arranged; an outer surface of the wall extending between the pair of electrodes; a filling provided in the space and comprising a rare gas and halides of tin and indium (column 4, line 33); characterized in that the wall

has a wall load of at least  $30 \text{ W/cm}^2$  at its outer surface, and in that the filling comprises an alkali metal halide with at least one alkali ion and at least one halide ion, the alkali ion being cesium (column 4, line 64), and the halide ion being chosen from the group formed by bromine and iodine (column 4, line 48).

Re claim 2: Fromm et al. discloses a lamp having a discharge arc equal to 9mm (column 4, line 51) which is within the range claimed by applicant.

Since the applicant discloses any lamp, having a short discharge arc, being at most 10mm, has a wall load of  $30 \text{ W/cm}^2$  (page 2, line 24), the examiner assumes that since Fromm et al. discloses a discharge arc within the range disclosed by the applicant that the wall load would be  $30 \text{ W/cm}^2$ .

The errors in the figure labels have been corrected to properly indicate the wall having an outer surface extending between the pair of electrodes being from figure 1, 4. Any inconvenience is regretted.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fromm et al.

Re claim 3: Fromm et al. fails to disclose the use of potassium as the alkali ion.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to use potassium as the alkali ion because potassium is an alkali metal and Fromm et al. discloses the use of alkali metals within the discharge lamp therefore it is only a functional equivalent substitution to use potassium rather than another alkali metal.

Re claim 6: Fromm et al. fails to disclose the high pressure lamp as a DC lamp.

Fromm et al. does disclose the use of an AC lamp (column 5, lines 35+). It would have been obvious to one of ordinary skill in the art at the time the invention was made to use a DC lamp rather than an AC lamp because it is well known in the art that it is dependent upon the circuit the lamp is run on and is only a choice of the system it is run on.

Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fromm et al. in view of Sugimoto et al. (US Patent 5,479,065).

Fromm et al. fails to disclose a high-pressure gas discharge lamp comprising a reflector.

Sugimoto et al. discloses a high-pressure gas discharge lamp comprising a reflector (figure 1,12).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine the apparatus disclosed by Fromm et al. with that of a reflector because it would increase the brightness of the lamp, therefore increasing the efficiency of the lamp.

### ***Response to Arguments***

Applicant's arguments filed 6 January 2003 have been fully considered but they are not persuasive.

On page 4, lines 11+, the applicant argues that Fromm et al., figure 1, 1, does not relate to a quartz discharge vessel. However, claim 1 only discloses a quartz glass lamp vessel, not a quartz discharge vessel. Fromm et al. does disclose in figure 1, 1 and also in column 8, line 6 an outer bulb, which is a lamp vessel, made from silica glass. Additionally, Webster's dictionary discloses the definition of quartz to be "a mineral consisting of silicon dioxide" which is silica, therefore silica and quartz are equivalent.

On page 6, lines 15+ the applicant argues that one skilled in the art would not be able to derive the combination of filling as claimed by the present invention and that the disclosure would not necessarily be mercury free. However, claim 1 uses the term comprising which is open ended wording therefore all the limitations argued by the applicant are disclosed by Fromm et al. as exhibited above.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Beth Gemmell whose telephone number is (703) 305-1937. The examiner can normally be reached on Monday-Thursday 6:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Kim can be reached on (703) 305-3492. The fax phone numbers for

Application/Control Number: 09/709,265


Page 7

Art Unit: 2882

the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0956.

emg  
February 27, 2003

  
ROBERT H. KIM  
SUPERVISOR  
TELEPHONE